

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:  
(202) 326-7999

March 16, 2020

*Via ECF*

The Honorable Sarah Netburn  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 430  
New York, NY 10007

Re: *In re Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

I write on behalf of Defendant Kingdom of Saudi Arabia (“Saudi Arabia”) concerning the standing order recently issued by Chief Judge McMahon, *In re Coronavirus COVID-19 Pandemic*, No. M10-468 (Mar. 13, 2020); the hearing currently scheduled for March 23, 2020; and the procedures for sealed filing.

Chief Judge McMahon’s standing order states that, “in order to protect public health, and in order to reduce the size of public gatherings and reduce unnecessary travel,” *id.* at 1 (preamble), all jury trials scheduled to begin before April 27, 2020, are continued, *id.* ¶ 2; “[i]ndividual judges may continue to hold hearings, conferences, and bench trials in the exercise of their discretion, consistent with this order,” *id.* ¶ 9; and “[j]udges are strongly encouraged to conduct court proceedings by telephone or video conferencing where practicable,” *id.* ¶ 10.

The Court has set a hearing for March 23, 2020, one week from today, “to address disputes related to the deposition protocol and the Kingdom’s motion for a protective order.” ECF No. 6026 (docket order). Counsel for Saudi Arabia have of course been planning to travel to New York for that hearing, and we understand that counsel for Dallah Avco have been as well. In light of the standing order and the current situation, we ask that the Court inform the parties how it plans to proceed with the March 23 conference and respectfully suggest that a telephone conference rather than an in-person hearing would be appropriate.

Saudi Arabia also requests a temporary modification of the Court’s procedures for sealed filings. At present, sealed filings must be delivered in person to the Clerk’s Office by a person

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

The Honorable Sarah Netburn  
March 16, 2020  
Page 2

who has signed the appropriate protective order. All sealed filings by Saudi Arabia are also sent to your Honor's chambers and to opposing counsel by email, with a courtesy copy to Judge Daniels' chambers by facsimile or overnight mail. We ask that the Court temporarily deem submission to chambers and service on opposing counsel to be sufficient. We further ask that the parties be permitted to deliver the original copies of sealed filings to the Clerk's Office in person either (1) within a reasonable time after Chief Judge McMahon's standing order ceases to be in effect, or (2) as the Court may otherwise direct.

Dallah Avco and the government do not object to the above requests. Plaintiffs do not object to the request for a temporary modification of the Court's procedures for sealed filings.

Plaintiffs have indicated that they will request that the March 23, 2020 hearing be cancelled entirely and that the Court set a telephone conference for the week of April 13. Saudi Arabia disagrees, and submits that it would be useful for the parties to present their views, and the Court to supply guidance, on what parts of the case can and should go forward during the present period of reduced meetings and gatherings and reduced travel.

There are also several other outstanding issues that can be addressed usefully in a telephone hearing. Most of the issues raised in connection with the deposition protocol and the protective order motion can be resolved now, with the exception of the schedule. Although depositions are unlikely to go forward for some time, there is no reason the parties cannot start preparing for them, and the Court's ruling on these motions would provide useful guidance for that process. Saudi Arabia also intends to renew its request to review and respond to the sealed *ex parte* submission that is due from Plaintiffs on March 18, which the Court will by March 23 have had a chance to review in the first instance.

Saudi Arabia does not object to an additional telephone conference the week of April 13, as Plaintiffs suggest, to discuss the status of the matter.

Respectfully submitted,

/s/ Michael K. Kellogg

Michael K. Kellogg  
*Counsel for the Kingdom of Saudi Arabia*

cc: The Honorable George B. Daniels (via facsimile)  
All MDL Counsel of Record (via ECF)